

Analisis Yuridis Penerapan Asas Ketertiban Umum Dalam Pembatalan Kontrak Komersial Internasional Di Indonesia

Oleh
Meriyanti Djaka¹, Paripurna²

INTISARI

Penelitian ini bertujuan untuk menganalisis pembatalan kontrak *Sale and Purchase Agreement By and Between* Blutether Limited and PT. MNC Skyvision Tbk (Kontrak SPA); menganalisis penerapan asas ketertiban umum dalam pembatalan kontrak komersial internasional di Indonesia; serta untuk mengetahui implikasi pembatalan kontrak terhadap klausul pilihan hukum dan pilihan forum.

Penelitian ini merupakan penelitian yuridis normatif dengan sifat penelitian deskriptif yang dapat menggambarkan hasil penelitian secara menyeluruh dan mendalam berdasarkan bahan hukum yang relevan. Dengan menggunakan pendekatan perundang-undangan (*statute approach*), kasus (*case approach*), perbandingan (*comparative approach*), serta pendekatan konseptual (*conceptual approach*), penelitian ini akan dianalisis secara kualitatif.

Hasil dari penelitian ini ialah pembatalan kontrak SPA menunjukkan bahwa penerapan asas ketertiban umum dalam pembatalan kontrak komersial internasional di forum pengadilan Indonesia tidak tepat berdasarkan ketentuan yang ada. Dalam hal ini, penerapan asas ketertiban umum sebagai dasar pembatalan kontrak di Indonesia cakupannya masih sangat luas. Berdasarkan kasus-kasus yang ada, hakim cenderung dapat membatalkan kontrak komersial internasional yang didasarkan pada substansi maupun formalitas kontrak. Selain itu, pembatalan kontrak komersial internasional tidak serta merta dapat membatalkan klausula pilihan hukum dan pilihan forum yang ada dalam kontrak, namun klausula tersebut tetap tidak dapat bertentangan dengan ketertiban umum atau aturan yang berlaku.

Kata Kunci: Kontak Komersial Internasional, Ketertiban Umum, Pilihan Hukum, Pilihan Forum

¹ Mahasiswa Program Studi Magister Hukum Bisnis dan Kenegaraan, Departemen Hukum Bisnis, Fakultas Hukum Universitas Gadjah Mada

² Dosen Departemen Hukum Bisnis, Fakultas Hukum Universitas Gadjah Mada

Juridical Analysis of the Application of Public Order Principle in the Annulment of International Commercial Contracts in Indonesia

By

Meriyanti Djaka³, Paripurna⁴

ABSTRACT

This research aims to examine the annulment of the Sale and Purchase Agreement between Blutether Limited and PT. MNC Skyvision Tbk (SPA Contract); analyze the application of public order principle in the annulment of international commercial contracts in Indonesian; and identify the implications of contract annulment on choice of law and choice of forum clauses.

This study employs a normative legal research method with descriptive characteristics to provide a comprehensive and in-depth analysis of the research findings based on relevant legal materials. Utilizing the statutory approach, case approach, comparative approach, and conceptual approach, this study will be analyzed qualitatively.

The results of this research indicate that the annulment of the SPA contract shows that the application of the public order principle in the annulment of international commercial contracts in Indonesian court forums is not accurate according to the prevailing regulations, the application of the public order principle as a basis for contract annulment in Indonesia remains overly broad. Based on existing cases in Indonesia, judges tend to annul international commercial contracts based on both the substance and the formalities of the contract. Furthermore, the annulment of international commercial contracts does not automatically nullify the existing choice of law and choice of forum clauses. However, these clauses must not contravene public order or prevailing regulations.

Keywords: *International Commercial Contracts, Public Order, Choice of Law, Choice of Forum*

³ Postgraduate Student of Business Law Department, Faculty of Law, Gadjah Mada University, Yogyakarta

⁴ Lecturer of Business Law Department, Faculty of Law, Gadjah Mada University, Yogyakarta